

HOUSE No. 4330

Text of an amendment recommended by the committee on Ways and Means, as changed by the committee on Bills in the Third Reading and as amended by the House, to the Senate Bill regarding families and children engaged in services (Senate, No. 1963, amended). July 25, 2012.

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

By striking out all after the enacting clause and inserting in place thereof the following:—

1 “SECTION 1. Chapter 6A of the General Laws is hereby amended by inserting after section 16S
2 the following section:-

3 Section 16T. (a) For the purpose of this section the following words shall have the following
4 meanings:-

5 ‘Child requiring assistance’, a child between the ages of 6 and 18 who: (i) repeatedly runs away
6 from the home of the child’s parent, legal guardian or custodian; (ii) repeatedly fails to obey the
7 lawful and reasonable commands of the child’s parent, legal guardian or custodian, thereby
8 interfering with their ability to adequately care for and protect the child; (iii) repeatedly fails to
9 obey the lawful and reasonable regulations of the child’s school; or (iv) is habitually truant..

‘Community-based services’, services, including coordination of services, designed to assist families requiring assistance so that, if appropriate, children of the family may continue to reside with their family and attend their community school while enjoying a strengthened relationship with their family.

‘Family requiring assistance’, a parent, guardian, custodian, sibling and any relative or caretaker responsible for a child requiring assistance.

‘Habitually truant’, a school-aged child, not excused from attendance in accordance with the lawful and reasonable regulations of such child’s school, who willfully fails to attend school for more than 8 school days in a quarter.

‘Secretary’, the secretary of health and human services.

(b) Subject to appropriation or third party reimbursement, the secretary shall:

(1) establish a network of child and family service programs and family resource centers throughout the commonwealth to provide community-based services to families with children requiring assistance in accordance with subsection (c);

(2) develop guidelines and standards necessary to achieve and maintain, on a statewide basis, a comprehensive and integrated network of community-based services and family resource centers for children and families;

(3) promote efficiency by including in the network of community-based services and family resource centers access to the following existing services: (i) organizations that are part of the comprehensive community-based behavioral health delivery system coordinated by the secretary under section 16S; (ii) organizations that provide services or have experience in

31 coordinating access to community-based services such as local schools; (iii) other local public
32 agencies and private organizations; and (iv) local medical, behavioral or mental health care
33 providers;

34 (4) coordinate the outreach, intake, screening, assessment and referral services
35 provided by the network and in the family resource centers;

36 (5) encourage cooperation among local providers as needed to provide the full
37 complement of services required under this section;

38 (6) monitor and provide technical assistance to family resource centers and
39 providers of community-based services;

40 (7) require the use of a standard intake screening and assessment tools to evaluate
41 families and children seeking community-based services which shall identify the family's
42 strengths, resources and service needs including, but not limited to, mental health, behavioral
43 health or substance abuse treatment, basic family shelter, clothing and food needs, child care
44 needs, health insurance status, legal issues, education placement and child protection; and

45 (8) create a data collection system for use by programs within the community-based
46 services network and family resource centers which shall maintain the privacy of clients served,
47 assist programs and the secretary in addressing the needs of the population to be served, collect
48 information including, but not limited to, insurance status and benefit coverage of clients served,
49 income documentation as needed to apply a sliding fee scale for payment or waiver of payment
50 for services and such other information deemed necessary to assist the program and the
51 secretary in providing services, identifying service needs and gaps and evaluating the
52 effectiveness of family resource centers and the community-based services network.

(c) The network of community-based services and family resource centers shall: (i) assist families so that, whenever possible, children may continue residing with their families in their home communities; (ii) assist families to enable children to continue as students in their community schools; (iii) strengthen the relationships between children and their families; and (iv) provide coordinated, comprehensive, community-based services for children at risk of dropping out of school, committing delinquent acts or engaging in behaviors which impede the likelihood of leading healthy, productive lives.

Services offered through the network shall include, but not be limited to, treatment for or assistance with eligibility determinations, behavioral, medical and mental health needs, special education evaluation, remedial education services, assistance with insurance issues, mentoring, family and parent support, civic engagement and community service, after school and out-of-school opportunities, residential programs, crisis management and case management.

(d) Any documentation of services provided to the family and child through the network of community-based services or in the family resource centers shall not be public records under clause Twenty-sixth of section 7 of chapter 4. Except as otherwise required by law, including laws related to the reporting of suspected abuse or neglect under section 51A of chapter 119, statements made by the family and child while receiving services from the network of community-based services shall be treated as confidential and shall not be used in any proceedings without the written consent of the person making the statement. Information about the child and family requiring assistance, including interactions with service providers and protected health information services, may be shared among the case team, other providers of community services serving the family and any agency within the executive office of health and human services providing services to the child as needed to coordinate treatment and provide

appropriate case management, to the extent permitted under applicable federal law, unless the child or a member of the family decline in writing to permit such information sharing.

(e) Participation in community-based services and use of the family resource centers shall be pursuant to a voluntary agreement of the parent, legal guardian or custodian and the child; provided, however, that provision of community-based services may be contingent upon such parent, legal guardian or custodian agreeing to pay for such services or consenting to allow covered services to be billed to applicable third party payers, including insurance providers.

(f) Except as provided herein, a school administrator shall refer a student to a family resource center or a community-based services program, if such programs have been established in the geographic region where the student resides, at the same time that the administrator notifies such student and the parent, legal guardian or custodian thereof that such student is to be expelled for failure to comply with the lawful and reasonable rules of the school. After providing the process that is due to such student, including an expulsion hearing if requested under section 37H and section 37H 1/2 of chapter 71, the school administrator shall consider the outcome of the community-based services if the student provides such outcome information to the school. After an expulsion is imposed, the student may continue to provide information relative to the outcome of any community-based services rendered, and the school administrator shall consider the outcome of any community-based services rendered any time such information is provided. Notwithstanding the outcome of any community-based services, school districts may make available to expelled students educational services designed to lead to re-entry to a regular education program or to a high school diploma.

97 A school shall refer a child and family to a department of education truancy program, if
98 such a program is available at the school, before referring the child and family to community-
99 based services or a family resource center for habitually truant behavior. Whenever a child or
100 family seeks assistance from a family resource center or community-based service network
101 program for habitually truant behavior, the program staff shall assist the family in gaining access
102 to a certified truancy program.

103 (g) Nothing in this section shall diminish or interfere with the rights and protections afforded to
104 students with disabilities under federal and state special education laws.

105 SECTION 1A. (a) The department of mental health in collaboration with the department of
106 youth services and the department of public health is hereby authorized and directed to conduct a
107 comprehensive review of the mental health and substance abuse service needs of adolescents in
108 the care of or detained in the commonwealth through the order of a juvenile court, including
109 without limitation juveniles detained in the department of youth services or in the custody of the
110 department of children and families, or receiving services from the department of mental health,
111 the court clinics, probation, or otherwise, and including without limitation any such departments,
112 offices, agencies or instrumentalities of the commonwealth, and any private organizations and
113 agencies operating under arrangement with departments or agencies of the commonwealth. To
114 complete said review, the department of mental health, department of youth services, and
115 department of public health shall solicit input from the office of probation, the department of
116 children and families, the department of education, the juvenile court, juvenile court clinics, the
117 committee for public counsel services, the department of mental retardation, the division of
118 insurance, the division of medical assistance, the Massachusetts Association of District
119 Attorneys, at least one individual representing the interests of parents and families, at least one

advocate for juvenile justice, at least one representative of a service provider community, and at least one representative from the Massachusetts Association of Health Plans. Said review shall be for purposes of identifying the following:

(i) existing and proposed models of alternatives to detention, within and outside the commonwealth, of providing mental health and substance abuse services to juveniles in detention, and as alternatives to detention; community resources and other dependencies which affect the appropriateness and effectiveness of models of alternatives to detention; and data demonstrating the relative efficacy, cost-effectiveness, and effect on public safety of alternative models;

(ii) unmet mental health and substance abuse needs of juveniles within the juvenile court systems of the commonwealth, including an explicit comparison of the best practices and models identified in paragraph (a) of this section with services and models available in the commonwealth;

(iii) recommendations for addressing unmet needs, including without limitation through the court clinics of the juvenile courts, and through contracting by the department of mental health for community-based services through community providers, or through consortia of community providers, local government agencies and others operating in congruence with local courts involved in the juvenile justice system.

(b) Within sixty days after the effective date hereof, the department shall post to its external website, for thirty days public comment, a proposed work plan to gather information necessary to prepare the report required by this section, in consultation with clinical, philanthropic and advocacy organizations for children, and providers of mental health and substance abuse services

for minors. The proposed work plan shall be directed to submit a final report to the legislature and the governor no later than two hundred and seventy days after the effective date of this act.

(c) Within ninety days after the effective date of this act, the department shall post its final work plan on its external website.

(d) Within two hundred and ten days after the effective date of this act, the department shall post on its external website, for public comment, a draft report responsive to this section.

(e) Within two hundred and seventy days after the effective date of this act, the department shall post on its external website a final report responsive to this section, including a summary of all public comments received, and responses to such comments. The department shall also that day provide a copy of its final report to the governor, the president of the senate, the speaker of the house of representatives, the chairs of the joint committees on mental health and substance abuse, and children, families and persons with disabilities, and the legislative mental health caucus.

SECTION 1B. Section 39E of chapter 119 of the General Laws, as appearing in the 2010 official edition, is hereby amended by inserting, after the third paragraph, the following paragraph:-

When a petition seeking a determination that a child is in need of services is presented to the clerk for filing, the clerk shall inform the petitioner that the petitioner may delay filing the petition and choose to have the child and his family referred to a family resource center, community-based services program or other entity designated by the secretary of health and human services to provide community-based services in the juvenile court district where the child resides and return to court at a later time to file a request for assistance, if needed. The

clerk shall prepare, publish and disseminate to each petitioner educational material relative to available family resource centers, community-based services programs and other entities designated by the secretary of health and human services.

SECTION 1C. Said section 39E of said chapter 119 is hereby further amended by inserting, after the fifth paragraph, the following paragraph:-

The commissioner of probation shall establish a system to collect data on all petitions seeking a determination that a child is in need of services. Said system shall maintain the privacy of clients served, assist the court in addressing the needs of the population to be served and collect information related to: the racial and ethnic identity of the child; the insurance status and coverage of clients served; the length of time a child is receiving assistance from a probation officer, including the time prior to and subsequent to the filing of a petition; the identity of any public or private organization to whom a probation officer has referred a child or family for services; and any other information that may assist the commissioner and the court in evaluating the availability and effectiveness of services for children who are the subjects of such petitions. The probation officer shall gather information concerning each child and family referred to the officer including, but not limited to, insurance status and coverage and other information that may assist the commissioner of probation and the court in evaluating the availability and effectiveness of services for children who are the subjects of petitions.

SECTION 1D. Said section 39E of said chapter 119 is hereby further amended by inserting, at the end thereof, the following paragraph:-

A child who is the subject of a petition seeking a determination that a child is in need of services may not be confined in shackles or similar restraints or in a court lockup facility in connection

with any proceedings under such petition. A child who is the subject of a petition shall not be placed in a locked facility or any facility designated or operated for juveniles who are alleged to be delinquent or who have been adjudicated delinquent. Such child may, however, be placed in a facility which operates as a group home to provide therapeutic care for juveniles, regardless of whether juveniles adjudicated delinquent are also provided care in such facility.

SECTION 2. (a) Notwithstanding chapter 119 of the General Laws or any other general or special law, rule or regulation to the contrary, within 1 years of the effective date of this act, the secretary of health and human services shall, with the advice of the advisory board established in section 3, design a pilot program for the delivery of community-based services for children requiring assistance which shall include a family resource center and shall be compatible with existing community-based service systems for children. The pilot program shall allow a child or family to seek assistance from a family resource center or community-based services program directly and without referral. The program shall include procedures for referral to other services whenever the staff of the family resource center or program offering community-based services determines that a family seeking or referred for services for a child has significant and complex medical needs which cannot be met by the agency or if the child's behavior presents a significant risk of harm that cannot be safely managed in such center or program.

(b) The advisory board shall review the pilot program design and make recommendations to the secretary as to whether sufficient information, workforce and funding is available to prepare and implement a pilot program.

(c) Subject to appropriation, within 2 years of the effective date of this act, the secretary shall implement the pilot program and establish a pilot family resource center or a community-based service system program each county of the commonwealth. The secretary, with the advice and

assistance of the advisory board, shall analyze the effectiveness of the pilot sites in order to make necessary changes to the program design in establishing a network of family resource centers and community-based service programs throughout the commonwealth.

SECTION 3. (a) There shall be established within the executive office of health and human services, but not subject to the control of said executive office, a Families and Children Requiring Assistance Advisory Board, hereinafter called the advisory board. The advisory board shall consist of the following members: the commissioner of the department of children and families, or a designee; a Department of Children and Families adolescent social worker approved by the regional director of the area pilot program; the commissioner of the department of youth services, or a designee; the commissioner of the department of mental health and a Department of Mental Health case manager approved by the regional director of the area pilot program; the commissioner of the department of public health; the director of the office of Medicaid, or a designee; the child advocate, or a designee; the commissioner of the department of elementary and secondary education, or a designee; a juvenile court judge appointed by the chief justice of the juvenile court; a probation officer, assigned to a juvenile court, appointed by the commissioner of probation; the chair of the board of the committee for public counsel services, or a designee; 1 member appointed by the speaker of the house; 1 member appointed by the senate president; and 3 members appointed by the governor, 1 of whom shall be a district attorney, 1 of whom shall be an independent education advocate, 1 of whom shall be a private provider of services to families with children who have behavioral health needs and 1 who is a parent and is not an employee of the commonwealth. The governor and the chief justice of the juvenile court shall each designate 1 board member to serve as co-chairs. All appointments to the advisory board shall be made not later than 30 days after the effective date of this section. Any

vacancy shall be filled by the appointing authority. The chairpersons of the board shall schedule the first meeting of the advisory board, which shall be held not later than 60 days after the effective date of this section.

(b) The advisory board shall perform the following tasks:

(1) advise the secretary of health and human services in designing and implementing a community-based service network and family resource center pilot program established in section 2, including methods to collect the following data on clients served: demographic information, insurance status and benefit coverage of clients served, income documentation as needed to apply a sliding fee scale for payment or waiver of payment for services, and such other information deemed necessary to assist the program and the secretary in providing services and evaluating the effectiveness of family resource centers and community-based services programs;

(2) provide a mechanism for the clerk of the juvenile court to obtain information and make referrals to a family resource center or community-based services program established by the pilot program;

(3) provide advice with respect to the adequacy of resources and support to expand the pilot program;

(4) coordinate with the department of probation to obtain the following information from the juvenile court districts in which the pilot program is established: the number of children and families receiving assistance from probation officers; the racial and ethnic identity of the children and families, as identified by the child and family members; an analysis of the services provided and an identification of gaps in services available; the number of children who may be eligible to request assistance under the pilot program that have been charged with a delinquency

matter in the previous year; and the custody status of a child that is subject to the request for assistance, specifying if the child is in the custody of the department of children and families or committed to the care of the department of youth services.

(c) The secretary of health and human services, the commissioner of the department of elementary and secondary education, the commissioner of probation and the chief justice of the juvenile court shall provide to the advisory board periodic data reports which include information relative to families and children seeking, or referred for, assistance and the services provided to them. Within 12 months of the effective date of this act, the advisory board shall submit recommendations to the governor and the house and senate committees on ways and means for funding and implementation activities based on the review of such data submitted.

(d) The advisory board shall, on or before January 30 of each year, report in writing to the governor, the child advocate, the house and senate committees on ways and means, the joint committee on children and families and persons with disabilities and on the joint committee on the judiciary on the progress made relative to the implementation of the pilot program under section 2. The report shall include the design plans for the pilot program and any progress made toward its implementation, including a recommended budget for the activities to be undertaken and any necessary legislative changes. Once the pilot program has been established, the report shall include a detailed account of the program's successes and obstacles as well as any recommendations to alter the program design or establish new pilot centers.

SECTION 4. Section 1 shall take effect 3 years after effective date of this act.”.